

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
IMPLEMENTATION OF THE) Administrative Order
FINES/FEES AND RESTITUTION) No. 2003- 79
ENFORCEMENT PROGRAM: "FARE")
_____)

In October 2002, the Arizona judiciary established the Penalty Enforcement Plan ("PEP"). A four phase approach, PEP was proposed to assist the Governor and the Legislature in resolving the severe budget crisis in Arizona through enforcement of court orders, thereby increasing revenues to state, county, city and town governments.

On December 12, 2002, this Court entered Administrative Order No. 2002-113 declaring a Fiscal Emergency in the Judicial Branch of Arizona and requiring certain steps be taken to improve compliance with court ordered financial obligations. The administrative order directed:

1. Each county presiding judge to present a plan to the Administrative Office of the Courts (AOC) by July 1, 2003 setting out a program to move all courts in their county to the state income tax refund intercept program ("TIP") by December 31, 2003, or as soon as reasonably practicable thereafter. (Phase I of PEP)
2. The AOC to enhance court order enforcement through centralized collection activities, if determined to be cost effective and feasible. (Phase IV of PEP)

Phase I of PEP is now being implemented and revenues collected to date have exceeded expectations. Initial projections were that Phase I would result in increased revenues of \$ 2 million; as of this date, a total of \$ 4.1 million, a \$ 1.8 million increase has been achieved. Phase II calls for expansion of TIP to include a federal tax refund intercept program and work continues to encourage Congress to make the necessary changes to federal law.

Phase III of PEP is the Traffic Ticket Enforcement Assistance Program (TTEAP). Established by A.R.S. §28-1631, this collaborative project with the Department of Transportation, Motor Vehicle Division, will assist in collecting delinquent fines and penalties by requiring these financial sanctions to be paid before vehicle registrations can be renewed. The Legislature appropriated funds to the Department of Transportation for implementation of TTEAP.

In accordance with Phase IV of PEP, the AOC hired a consultant to examine the current collection practices of the Arizona courts and various options for enhancing these collections. In December 2002, the consultant reported to the Arizona Judicial Council that outsourcing part, but not all of the collections process was indeed feasible and will result in increased collections. Further, the consultant emphasized that public trust and confidence in the judicial system, as well as in the executive and legislative branches of government is improved when compliance with court orders is more uniformly enforced. The Arizona Judicial Council concurred with the findings of the consultant and in February 2003, a request for proposals was issued by the AOC inviting private vendors to submit proposals to privatize collection activities. A private vendor, ACS Local and State Solutions (ACS), with headquarters in Washington, D.C., was selected following a competitive process. ACS is a substantial, publicly traded entity experienced in various similar partnerships with state and local governmental units whose purpose is to secure compliance with court orders.

During this same time period, several experiments using some of the techniques envisioned were conducted in test courts with considerable success. Based on the work of the consultant, the success of other E Government projects such as Arizona@YourService, and the test projects, it is now evident that a private/public partnership between ACS and the Arizona courts to outsource certain collection - related activities is cost effective, should result in enhanced customer service and improve compliance with court orders.

A contract for services has been signed with ACS to provide collection and payment related services for the courts of Arizona. A "Fines/Fees And Restitution Enforcement" Program, "FARE", is created through this partnership between the judicial branch and ACS. FARE will incorporate Phases III and IV of PEP and will provide local courts with a suite of services including, but not limited to, the following:

1. courtesy notices;
2. delinquency notices;
3. credit bureau reporting;
4. web and telephone-based credit card payments;
5. referral to the Tax Intercept Program (TIP);
6. referral to the Traffic Ticket Enforcement Assistance Program (TTEAP);
7. electronic skip tracing;
8. case record data enhancement;
9. installment payment plan services; and
10. advanced collection and offender location services.

Laws 2003, Chapter 263, House Bill 2533, Section 8, as passed by the Legislature and signed by Governor Napolitano, provides that a portion of the expected increased revenues will be directed to the state general fund, with the remainder directed to county and city funds. The FARE Program is an essential component in increasing compliance with court orders and thus, increasing collections. The FARE Program involves implementation and operational costs that should be borne by the persons who incur court obligations. Costs of program operations, web and telephone based credit and debit card payments, electronic payments processing, courtesy and additional notices,

address checking and updating may be incurred for every court obligation and shall be paid by a FARE general services fee. Costs for additional notices, credit bureau reporting, skip tracing, referral to TTEAP and TIP and personal contact and litigation may be incurred in efforts to collect a delinquent court obligation and specific collection fees must be imposed to recover costs.

Standardization and coordination of web and telephone based payment systems, interfaces with the Motor Vehicle Division and Department of Revenue, and collections of court obligations is necessary to provide consistent services to both in and out-of-state citizens owing a court obligation, and to realize efficiencies for taxpayers by avoiding the cost of building and maintaining multiple systems. This approach is also consistent with practices in other branches of government. For example, in April 2003, the Governor issued a directive requiring coordination of all web development initiatives and web-related services through the executive branch's Government Information Technology Agency.

Now, therefore, pursuant to Article VI, Section 3 of the Arizona Constitution,

IT IS ORDERED that the following steps shall be taken to implement FARE:

INITIAL IMPLEMENTATION

1. "Pioneer Courts"

The AOC shall proceed immediately with implementing those services offered by ACS through the FARE Program in the following "pioneer courts:"

Chandler Municipal Court
Central Phoenix Justice of the Peace Court
East Phoenix #1 Justice of the Peace Court
Phoenix Municipal Court
Showlow Municipal Court
Tucson Municipal Court
West Phoenix Justice of the Peace Court

These courts shall work with the AOC and ACS to build the connectivity between ACS electronic systems and those of the AOC and local courts as appropriate to implement the FARE Program. Following the successful implementation of the FARE Program in the pioneer courts the AOC shall work with other courts to implement the program across the state.

2. Local Collection Services

Any local court planning to expand its existing collection services, independent of or separate from the FARE Program herein described, shall submit any such proposed plan to the Arizona Judicial Council for approval before proceeding with development and implementation. The Arizona Judicial Council may delegate review and approval of a plan to the Administrative

Director of the Courts, pursuant to criteria established by the Council. For the purposes of this order, “expansion” is defined as any activity that requires capital fund expenditures, binding contractual obligations or technology development or enhancement, including web-related services, but does not include maintenance of existing collection services. A court that currently does not have a collection program prior to the effective date of this order shall not develop a program or contract with a private vendor for collection services without approval of the plan by the Council. Submission of such plans is hereby mandated in order to provide more consistent and better coordinated services to customers throughout the state and to realize efficiencies for taxpayers by minimizing investment in duplicative services. This requirement applies to all courts, whether or not the court is participating in the FARE Program as a pioneer court. Further, this requirement will continue to apply to all courts after implementation of the FARE Program in the pioneer courts and rollout to other courts across the state.

3. Backlog

All delinquent court ordered financial obligations certified to the AOC for transmission to the Arizona Department of Revenue’s Tax Intercept Program that have not been otherwise assigned to private collection services, shall be referred to ACS for special collection services. This applies to all courts, whether or not the court is participating in the FARE Program as a pioneer court. The AOC shall determine which delinquent debt qualifies for special collection services according to criteria established by the AOC in consultation with ACS in accordance with the ACS contract, and transfer the debt to ACS for collection services as appropriate.

ADVISORY COMMITTEE

An Ad Hoc Advisory Committee shall be established comprised of representatives of the pioneer courts and the AOC as appointed by the Chief Justice. The Ad Hoc Advisory Committee shall make recommendations to the Chief Justice on program business rules, policies and procedures and implementation of the program statewide. The Ad Hoc Advisory Committee shall provide periodic updates to the Arizona Judicial Council on the progress of the FARE Program. The Ad Hoc Advisory Committee shall terminate upon the successful implementation of the FARE Program in the pioneer courts, and shall be replaced by a standing Advisory Committee with statewide representation from limited jurisdiction courts and the Superior Court.

FARE FEE SCHEDULE

1. To provide the additional services of the FARE Program, FARE Program services fees and collection fees are necessary to cover the costs incurred to implement and operate FARE. Therefore, it is necessary to adopt a “FARE Fee Schedule.” The attached schedule adopts one of the collection fees, the “Special Collections Fee,” to implement part of the FARE Program. The administrative director shall recommend additional services and collection fees for the FARE Fee Schedule, for adoption by the Chief

Justice. The fees in the schedule are not a filing fee, clerk fee, diversion fee, probation fee, juvenile monetary assessment, fine, penalty, surcharge, sanction or forfeiture and as such are not included in the definition of “baseline collections” of Laws 2003, Chapter 263, House Bill 2533, Section 8.

2. The “Special Collections Fee” prescribed in the attached schedule shall be assessed administratively for collection services. This fee shall be in addition to any fines, fees or surcharges authorized by statute or city or county ordinance.
3. A judge shall not waive or suspend the FARE fees unless the judge waives or suspends all monetary obligations.
4. The FARE fee shall be in the next category of priority for payment as the time payment fee pursuant to A.R.S. §12-116(A). The Ad Hoc Advisory Committee shall recommend business rules for application of this priority payment.

FARE FUND AND EXPENDITURES

1. The AOC shall establish a FARE Program account with the State Treasurer and the General Accounting Office. Funds deposited into this account shall include all FARE general services and collection services fees. All interest earned on monies in this account shall be deposited in this account.
2. The AOC shall administer the FARE fund and shall expend revenues in the fund to pay the operational costs incurred by the FARE Program. Subject to the availability of funds as described below each participating court shall receive payment as reimbursement for data entry, programming, payment processing and other FARE-related duties that may increase workload. The AOC shall establish reimbursement criteria. The criteria shall take into account local courts’ cost of computer programming, the timely and accurate provision of data entry and payment processing services and information, and revenues collected. Payment priority shall be as follows: ACS for services rendered; other governmental agencies involved in the FARE Program for services, as required by law; and the AOC and local courts for costs of operating the FARE Program. After payment of ACS and other governmental agencies, the remaining balance of any revenues shall be divided between the AOC and local courts to recover costs incurred.

3. Each court collecting FARE fees shall transmit the fees through the city or county treasurer, as appropriate, to the State Treasurer. All fees collected during a month shall be transmitted to the State Treasurer by the fifteenth day of the succeeding month.

Dated this 12 th day of August, 2003.

CHARLES E. JONES
Chief Justice

FARE FEE SCHEDULE

Special Collections Fee

19% of the total outstanding debt

Charged administratively to cover the costs associated with FARE special collection actions to collect outstanding debt. This fee covers special collection costs, as appropriate, including case and financial data entry, system integration and data transfer, account balance verification by court personnel, production and mailing of notices, skip tracing notices returned as undeliverable and notifying the court when a good address is obtained, web and telephone based payment services, personal telephone contact and credit bureau reporting. This fee applies to all cases submitted to ACS for special collections, regardless of whether or not a court is participating in the FARE Program as a pioneer court.